



Docket No.: 1594.1323

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Moon Joo LEE et al

Serial No. 10/811,951

Group Art Unit: 3748

Confirmation No.

Filed: March 30, 2004

Examiner: TRIEU, THERESA

For: VARIABLE CAPACITY ROTARY COMPRESSOR

COMMENT ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The Notice of Allowability mailed March 8, 2005, includes an Examiner's Statement of Reasons for Allowance. On page 2 of the Notice, the Statement asserts that the prior art fails to disclose "a rotary compressor having first and second compressing chambers...a pressure control unit...a valve member...a communication path...and first and second inlet channels."

It is respectfully submitted that the above-described assertion in the Statement paraphrases the claim language inconsistently and thereby, mischaracterizes the claimed invention. For example, claim 1 does not use specific language or limitations as "first and second inlet channels provided at predetermined position of the housing to make the path control channel communicate with the first and second compression chambers."

MPEP §1302.14 states, in part:

Where specific reasons are recorded by the examiner, care must be taken to ensure that statements of reasons for allowance (or indication of allowable subject matter) are accurate, precise and do not place unwarranted interpretations, whether broad or narrow upon the claims. The examiner should keep in mind the possible misinterpretations of his or her statement that may be made and its possible estoppel effects.

The foregoing is merely meant to be exemplary, and does not point out all of the discrepancies between the Examiner's Statement of Reasons for Allowance and the claimed features of the currently pending claims.

It is further submitted that the claims speak for themselves and should not be interpreted based on the Examiner's characterizations of same. It is also submitted that the claims provide their own best evidence as to the reasons for allowance.

In summary, it is submitted that the Examiner's Statement "raises possible misinterpretations... and possible estoppel effects" (M.P.E.P. §1302.14) and is therefore improper.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 5-25-05

By: Derrick L. Fields
Derrick L. Fields
Registration No. 50,133

1201 New York Ave, N.W., Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501